

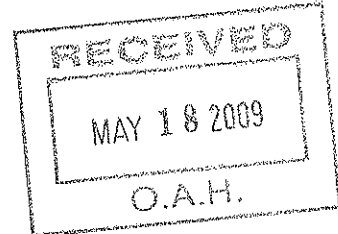
1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Revocation of the Mortgage
3 Broker License of:

No. 09F-BD064-BNK

4 **STANDARD FINANCIAL BROKERAGE**
5 **SERVICES, INC. AND**
6 **THOMAS M. LEWIS, PRESIDENT**
7 PO Box 2600
Carefree, AZ 85377

**AMENDED NOTICE OF HEARING TO
REVOKE**



Respondents.

8 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138,
9 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative
10 Hearings, an independent agency, and is scheduled for June 3, 2009 at 9:00 a.m., at the Office of
11 Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the
12 "Hearing").

13 The purpose of the Hearing is to determine whether grounds exist to suspend or revoke
14 Respondents' mortgage broker license; to order any other remedy necessary or proper for the
15 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-
16 123 and 6-131; and to impose a civil money penalty pursuant to A.R.S. § 6-132.

17 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
18 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
19 or expressed, to the Director of the Office of Administrative Hearings or the director's designee to
20 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
21 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
22 of Administrative Hearings has designated Diane Mihalsky at the address and phone number listed
23 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
24 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
25 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
26 decisions

1 pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law Judge is
2 specifically prohibited from entering.

3 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
4 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
5 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
6 Administrative Hearings.

7 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
8 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity
9 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses
10 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to
11 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),
12 any person may appear on his or her own behalf or by counsel.

13 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
14 made by a court reporter or by electronic means. Any party that requests a transcript of the
15 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

16 Questions concerning issues raised in this Amended Notice of Hearing should be directed to
17 Assistant Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix,
18 Arizona 85007.

19 **NOTICE OF APPLICABLE RULES**

20 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
21 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
22 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
23 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
24 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
25 R2-19-122. A copy of these rules is enclosed.

26 ...

1 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**
2 **days** after issuance of this Amended Notice of Hearing. The answer shall briefly state the
3 Respondents' position or defense and shall specifically admit or deny each of the assertions
4 contained in this Amended Notice of Hearing. If the answering Respondents are without or are
5 unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an
6 assertion, Respondents shall so state, which shall have the effect of a denial. Any assertion not
7 denied is deemed admitted. When Respondents intend to deny only a part or a qualification of an
8 assertion, or to qualify an assertion, Respondents shall expressly admit so much of it as is true and
9 shall deny the remainder. Any defense not raised in the answer is deemed waived.

10 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**
11 **deemed in default** and the Superintendent may deem the allegations in this Amended Notice of
12 Hearing as true and admitted and the Superintendent may take whatever action is appropriate,
13 including suspension or revocation of Respondents' license and imposition of a civil penalty or
14 restitution to any injured party.

15 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial
16 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
17 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
18 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
19 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

20 **Persons with disabilities may request reasonable accommodations such as interpreters,**
21 **alternative formats, or assistance with physical accessibility.** Requests for special
22 accommodations must be made as early as possible to allow time to arrange the accommodations. If
23 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

24 **COMPLAINT**

25 1. Respondent Standard Financial Brokerage Services, Inc. ("Standard") is authorized to
26 transact business in Arizona as a mortgage broker, license number MB 0906152, within the meaning

1 of A.R.S. §§ 6-901, *et seq.* The nature of Standard's business is that of making, negotiating, or
2 offering to make or negotiate loans secured by Arizona real property, within the meaning of A.R.S. §
3 6-901(6).

4 2. Respondent Thomas M. Lewis ("Mr. Lewis") is the President and CEO of Standard Financial
5 Brokerage Services, Inc. Mr. Lewis is authorized to transact business in Arizona as a mortgage
6 broker within the meaning of A.R.S. § 6-903(E).

7 3. A July 9, 2008, examination of Standard, conducted by the Department, revealed that
8 Standard and Mr. Lewis:

9 a. Failed to comply with disclosure requirements in their advertising; specifically:

10 i. Respondents have conducted direct marketing advertising where:

11 1. The Annual Percentage Rate ("APR") was not provided as part of the rates
12 disclosure;

13 2. The payment is given in the ad without disclosure of additional required
14 terms; and

15 3. The Phrase "rates subject to increase after settlement" was not included in the
16 Adjustable Rate Mortgage ("ARM") advertisement;

17 b. Failed to conduct the minimum elements of reasonable employee investigations prior
18 to hiring employees; specifically:

19 i. Respondents failed to obtain a completed and signed employment application
20 ("EA") prior to hiring two (2) employees;

21 ii. Respondents failed to obtain a signed statement attesting to all of an applicant's
22 felony convictions, including detailed information regarding each conviction
23 ("SS") before hiring two (2) employees;

24 iii. Respondents failed to consult with the applicant's most recent or next
25 most recent employer ("EI") before hiring two (2) employees;

26 iv. Respondents failed to inquire regarding an applicant's qualifications

- 1 and competence for the position ("QI") before hiring two (2) employees;
- 2 v. Respondents failed to sign, and properly date the Employment Eligibility
- 3 Verification Form ("I9") before hiring two (2) employees;
- 4 vi. Respondents failed to obtain an explanation for derogatory credit before hiring
- 5 two (2) employees; and
- 6 vii. Respondents failed to obtain a current credit report from a credit reporting
- 7 agency ("CR") before hiring one (1) employee;
- 8 c. Failed to maintain correct and complete records:
- 9 i. Respondents were unable to provide the following items at the time of the
- 10 examination:
- 11 1. Copies of bills;
- 12 2. Financials;
- 13 3. General Ledger; and
- 14 4. Corporation annual minutes; and
- 15 ii. Respondents failed to provide a copy of the filed 2006, Corporate Federal
- 16 Returns with extension filing for 2007;
- 17 d. Failed to maintain and keep at all times correct and complete location of records:
- 18 i. Respondents have maintained their financial records and bills with their CPA
- 19 without benefit of the Superintendent's approval as prescribed;
- 20 e. Failed to obtain approval of the Superintendent to maintain computer or mechanical
- 21 records:
- 22 i. Respondents failed to obtain a written request from the Superintendent for
- 23 approval to use such computer or mechanical record keeping system(s);
- 24 f. Failed to reconcile and update records;
- 25 i. Respondents failed to provide documentation to show that their bank account has
- 26 been reconciled to their check register and the check register has not been

- 1 updated to show balances;
- 2 g. Failed to prepare a complete loan application list:
- 3 i. Respondents failed to provide a provision for entering the application date, the
- 4 disposition, and the loan amount or loan officer; and
- 5 ii. Respondents did not include declined and withdrawn applications;
- 6 h. Failed to comply with the disclosure requirements of Title I of the Consumer Credit
- 7 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement
- 8 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated
- 9 under these acts; specifically:
- 10 i. Respondents failed to complete a Truth in Lending ("TIL") disclosure involving
- 11 one (1) borrower; and
- 12 ii. Respondents failed to provide updated Servicing Transfer ("ST") disclosures to
- 13 show the most recent three year history as required to five (5) borrowers;
- 14 i. Failed to maintain a complete listing of checks written:
- 15 i. Respondents failed to consistently indicate the payment's purpose in their check
- 16 register as required;
- 17 j. Failed to use a statutorily correct written fee/document agreement signed by all
- 18 parties; specifically:
- 19 i. Respondents failed to use a statutorily correct written agreement form when
- 20 accepting documents in connection with an application for a mortgage loan
- 21 involving one (1) borrower; and
- 22 k. Failed to ensure that the Responsible Individual maintained a position of active
- 23 management; specifically:
- 24 i. Respondents' owner and Responsible Individual, Thomas M. Lewis, has failed to
- 25 supervise Respondents' compliance with A.R.S. Title 6, Chapter 9 as it relates to
- 26 the licensee, and other applicable rules, as evidenced by the eleven (11)

1 violations of law;

2 4. Based in part, on the above findings, the Department issued and served upon Respondents a
3 Notice of Assessment on September 29, 2008.

4 5. A copy of the Department's Report of Examination ("Report") accompanied the Notice of
5 Assessment served upon Respondents. Page sixteen (16) of the Report states, "Within 30 days of the
6 cover letter accompanying this report of examination, [Respondents] must advise the Superintendent
7 of the actions taken to correct the violations of laws, and the measures implemented to prevent future
8 violations."

9 6. The cover letter that accompanied the Report was dated September 29, 2008. Given five (5)
10 days for mailing time, plus the thirty (30) day deadline Respondents' final date to respond to the
11 Superintendent's request for a response to the examination report was November 4, 2008.

12 7. Chris Dunshee ("Mr. Dunshee"), the Department's examiner in charge of Respondents'
13 examination, contacted Respondent, Mr. Lewis by telephone on November 3, 2008. Mr. Dunshee
14 informed the Respondent that he needed to request an Informal Settlement Conference ("ISC") and
15 Hearing and pay the exam fee.

16 8. On November 4, 2008, Mr. Dunshee sent the Respondent, Mr. Lewis, an e-mail as a follow
17 up to his telephone call on November 3, 2008.

18 9. On November 7, 2008, Mr. Dunshee again sent the Respondent, Mr. Lewis, an e-mail telling
19 him that if he did not request the ISC and hearing by that day he would miss the opportunity. Mr.
20 Lewis responded by e-mail stating and said he had decided not to request the ISC but wanted an
21 extension on making the payment.

22 10. On November 10, 2008, Mr. Dunshee sent the Respondent, Mr. Lewis, another e-mail that
23 informed him he needed to sign the consent order and pay the exam fee and provide the response to
24 the exam. Mr. Dunshee informed Mr. Lewis that he would need to correspond with Robert Charlton,
25 Assistant Superintendent, ("Mr. Charlton") on the payment of the civil monetary penalty. Mr.
26 Dunshee also explained that failure to act would lead to the loss of Respondents' license.

1 11. On January 5, 2009, Mr. Dunshee tried to e-mail Mr. Lewis, but the e-mail correspondence
2 came back undeliverable. Mr. Dunshee then called Mr. Lewis and left a message stating that
3 ignoring the Department would lead to the next step and that he needed to comply or his license
4 would be revoked. To date, Mr. Dunshee has not received a return phone call from Mr. Lewis. The
5 Department has not received the required response to Standard's examination report indicating
6 Respondents' actions to correct the statutory violations, payment of the exam fee, or payment of the
7 civil money penalty.

8 12. On March 5, 2009, the Department received a Notice of Cancellation/Non Renewal from
9 Platte River Insurance Company, stating that Standard's surety bond, number 41146997 shall expire
10 effective April 1, 2009;

11 13. On March 6, 2009, the Department sent a letter via certified mail to Standard, informing them
12 of the bond cancellation. Said certified letter was returned unsigned/undeliverable.

13 LAW

14 1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to
15 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,
16 rules and regulations relating to mortgage brokers.

17 2. By the conduct set forth in the Complaint, Standard Financial Brokerage Services, Inc., and
18 Thomas M. Lewis have violated the mortgage broker statutes and rules as follows:

- 19 a. A.R.S. §§ 6-903(M) and 6-906 (D), by failing to comply with disclosure requirements
20 in their advertising;
- 21 b. A.R.S. § 6-903(N) and A.A.C. R20-4-102, by failing to conduct the minimum
22 elements of reasonable employee investigations prior to hiring employees;
- 23 c. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B), by failing to maintain and keep at all
24 times correct and complete records as prescribed by the Superintendent;
- 25 d. A.R.S. § 6-906(A), by failing to maintain and keep at all times correct and complete
26 location of records as prescribed by the Superintendent;

- e. A.A.C. R20-4-917(C) by failing to obtain approval of the Superintendent to maintain computer or mechanical records;
- f. A.A.C. R20-4-917(C) by failing to update, verify and reconcile records;
- g. A.A.C. R20-4-917(B)(1), by failing to prepare a complete loan application list;
- h. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e), by failing to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts;
- i. A.A.C. R20-4-917(B)(3), by failing to maintain a complete listing of checks written;
- j. A.R.S. § 6-906(C), by failing to use a statutorily correct written fee/document agreement signed by all parties;
- k. A.R.S. § 6-903(E), by failing to ensure that the Responsible Individual maintained a position of active management; and
- l. A.R.S. § 6-903(G), by failing to maintain the required surety bond.

3. Respondents' failure to respond to a request for information from the Superintendent constitutes violations of A.R.S. §§ 6-124 and 6-123(3), which constitute grounds to suspend or revoke the mortgage broker license of Standard Financial Brokerage Services, Inc., number MB 906152, pursuant to A.R.S. § 6-905(A)(4), and A.R.S. § 6-905(A)(3).

4. The violations of applicable laws, set forth above, constitute grounds to suspend or revoke Respondents' mortgage broker license, pursuant to A.R.S. § 6-905(A)(3) and (4).

5. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

6. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

1 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
2 above-described violations or other grounds for disciplinary action, the Superintendent may suspend
3 or revoke Respondents' mortgage broker license pursuant to A.R.S. § 6-905(A); order any other
4 remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in
5 Arizona under A.R.S. §§ 6-123 and 6-131; and impose a civil money penalty pursuant to
6 A.R.S. § 6-132.

7
8 DATED this 18 day of May, 2009.

9 Felecia A. Rotellini
10 Superintendent of Financial Institutions

11
12 By 
13 Robert D. Charlton
14 Assistant Superintendent of Financial Institutions

15 ORIGINAL of the foregoing filed this 18th
16 day of May, 2009, in the office of:

17 Felecia A. Rotellini
18 Superintendent of Financial Institutions
19 Arizona Department of Financial Institutions
20 ATTN: Susan Longo
21 2910 N. 44th Street, Suite 310
22 Phoenix, AZ 85018

23 COPY of the foregoing mailed/delivered same date to:

24 Administrative Law Judge Diane Mihalsky
25 Office of the Administrative Hearings
26 1400 West Washington, Suite 101
Phoenix, AZ 85007

Craig A. Raby
Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

1 Robert D. Charlton, Assistant Superintendent
Chris Dunshee, Examiner In Charge
2 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by
Regular Mail, Certified Mail, Return Receipt Requested, and
5 SERVED SAME DATE by Process Server, to:

6 Standard Financial Brokerage Services, Inc.
Thomas M. Lewis, President
7 748 Easy Street, Ste. 9
Carefree, AZ 85377
8 Respondents

9 Standard Financial Brokerage Services, Inc.
Thomas M. Lewis, President
10 36874 N. Tom Darlington Dr.
Cave Creek, AZ 85377
11 Respondents

12 Standard Financial Brokerage Services, Inc.
Thomas M. Lewis, President
13 2425 E. Camelback Road #630
Phoenix, AZ 85016
14 Respondents

15 Standard Financial Brokerage Services, Inc.
Thomas M. Lewis, President
16 PO Box 2600
Carefree, AZ 85377
17 Respondents

18 Weiss Law Office PLC
Howard J. Weiss
19 Attorney and Statutory Agent for:
Standard Financial Brokerage Services, Inc.
20 2390 E. Camelback Rd. Suite 105
Phoenix, AZ 85016
21

22 By: 
23 PHX-AGN-2009-0255; 388797

24

25

26